IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 343/2006
(Gopa Ram Vs. State of Rajasthan & Anr.)

Date of Order : 04/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. B.S.Rathore for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.
Mr. D.S.Udawat for the non-petitioner No.2.

BY THE COURT:-

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 6.3.2006 passed by Additional Sessions Judge (Fast Track) No.1, Pali Headquarter at Jaitaran (for short 'the trial court' hereinafter) whereby the application filed by the petitioner dated 01.2.2006 seeking a direction to try the Sessions Case No.45/05 “State Vs. Kana Ram & Ors.” and a case pending in the Court of Judicial Magistrate, Jaitaran being Criminal Case No. 837/2005, together, as both the cases arise out of one and same occurrence.

By the order impugned, learned trial court dismissed

the application on the ground that in one of the case, the occurrence is said to be at 5.30 P.M., and in the other case it is 5.00 P.M.

I have heard learned counsel for the parties. Carefully gone through the challan papers in both the cases.

From the perusal of the challan papers, site map, and statements of witnesses, it appears that both the cases, arising out of FIR No. 151 and 152 dated 03.7.2005, Police Station, Jaitaran, appear to be out of one and same occurrence and the place of occurrence is also the same, which is prima-facie evident from the site map. There is some overwriting in one of the FIR lodged by Babulal.

Learned counsel appearing for the non-petitioner No.2 submits that there is difference in the timings mentioned in the FIRs. However, except different timings mentioned in the FIRs, learned counsel could not point out any other material to show that there were two different occurrences. The material on record prima-facie shows that the occurrence in both the FIRs took place at one place between the same parties in the same occurrence.

Learned counsel for the petitioner has relied on a

decision of Hon'ble Supreme Court in Nathilal & Ors. Vs. State of U.P. & Anr.1999 Cr.L.R. (SC) 139.

In Nathilal and Ors. Vs. State of U.P. & Anr. (supra), Hon'ble Supreme Court held that the fair procedure to adopt in a matter like the present where there are cross-cases, is to direct that the same learned Judge must try both the cross cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned Judge must thereafter dispose of the matters by two separate judgments. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the Judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross case. But both the judgments must be pronounced by the same learned Judge one after the other.

In Sudhir & Ors. Vs. State of M.P. & Ors. 2001

Cr.L.R. (SC) 212, Hon'ble Supreme Court held that it is a salutary practice when two criminal cases relate to the same incident, they are tried and disposed of by the same Court by pronouncing judgments on the same day.

Keeping in view the decisions of Hon'ble Supreme Court, in my view, the instant petition deserves to be allowed.

In the result, the criminal misc. petition is allowed. The order impugned dated 6.3.2006 passed by Additional Sessions Judge (Fast Track) No.1, Pali Headquarter at Jaitaran is set aside and learned trial court is directed to call the Criminal Case No. 837/2005 "State Vs. Babulal and Ors." pending in the Court of Judicial Magistrate, Jaitaran and try both the cases i.e. Sessions Case No.45/05 and Criminal Case No.837/05, together and decide one after another on the same day by two separate judgments expeditiously.

(H.R.PANWAR),J.

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